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Part II

Department of Education

34 CFR Parts 785, 786 and 787
National Diffusion Network; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Parts 785, 786 and 787

National Diffusion Network

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations for the National Diffusion Network. These amendments are needed to implement this program as reauthorized in the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Amendments).

DATES: Comments must be received on or before December 5, 1988.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Lois N. Weinberg, U.S. Department of Education, Programs for the Improvement of Practice, 555 New Jersey Avenue NW., Room 510, Washington, DC 20208–1525.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Lois N. Weinberg, (202) 357–6147.

SUPPLEMENTARY INFORMATION: The National Diffusion Network (NDN) supports efforts to recognize and further excellence in education, including the nationwide dissemination of exemplary education programs. These programs have been developed at the local level by classroom teachers and other practitioners with funds provided by a variety of sources including school districts, private businesses and foundations, colleges and universities, State educational agencies and Federal programs. After field testing and evaluation, again at the local level, these programs have been validated by several different procedures established by the Department. Once programs have been validated, they are considered part of the NDN. The developers of validated programs may compete for funding by the NDN to operate as Developer Demonstrator projects to disseminate specific exemplary education programs nationwide, or as Dissemination Process projects for nationwide dissemination of information, instructional materials and services about content areas, bodies of research or fields of professional development.

Until August 1987 the Joint Dissemination Review Panel (JDRP) provided the review for validation of programs. On August 14, 1987, final regulations were published in the **Federal Register** replacing JDRP review with a process called Dissemination Review Approval, consisting of review by both a Program Effectiveness Panel and a Program Significance Panel.

In accordance with the Hawkins-Stafford Amendments, the Secretary proposes to eliminate review by the Program Significance Panel. All references to the Program Significance Panel would be removed from the regulations. Only review and approval by the Program Effectiveness Panel would be required for entry into the NDN.

Pursuant to the Amendments, the Secretary proposes to require an applicant for a Developer Demonstrator or a Dissemination Process project to submit a representative sample of the instructional, curricular and classroom materials used by an exemplary education program. Each applicant will determine what constitutes a representative sample of its program to submit along with the application. For example, materials from different grade levels or various subject areas might be appropriate. Materials for inservice training of teachers as well as materials for teachers to use in the classroom might be included. Audio-visual materials and computer software materials might also be included, if they represent important elements of the training or instructional program. Criteria to determine whether an exemplary education program utilizes an innovative approach and whether the program materials are accurate and up-to-date would be added to the selection criteria for reviewing applications for funding. Reviewers will use the representative materials submitted by the applicant to determine the extent to which these criteria are met. The Secretary intends to include on the panels of peer reviewers to evaluate grant applications persons with experience and expertise in specific priority areas who would be knowledgeable about what is innovative, accurate and up-to-date in those fields.

Under the current regulations, scores given to an exemplary education program by both the Program Effectiveness Panel and the Program Significance Panel are used as considerations in making funding decisions. The Secretary proposes to eliminate these scores as factors in funding decisions.

The Secretary proposes to delete the reference to special history programs in conjunction with the bicentennial of the Constitution of the United States, since activities in commemoration of that historic event will have ended before the next grant competition. However, programs addressing that topic would still be eligible for funding under the history priority.

No changes are proposed in 34 CFR Parts 788 or 789, which regulate the NDN's State Facilitator and Private School Facilitator projects.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

Sections 786.10, 786.11, 786.21, 786.22, 786.23, 786.24, 786.25, 786.26, 786.27, 786.28, 787.10, 787.11, 787.21, 787.22, 787.23, 787.24, 787.25, 787.26, 787.27, and 787.28 contain information collection requirements.

As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget for its review. (44 U.S.C. 3504(h))

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 510, 555 New Jersey Avenue NW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Education Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Parts 785, 786 and 787

Dissemination, Education, Educational research, Grant programs—education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance number: 84.073—National Diffusion Network)

Dated: September 27, 1988.

Linus Wright,

Acting Secretary of Education.

The Secretary proposes to amend Parts 785, 786, and 787 of Title 34 of the Code of Federal Regulations as follows:

PART 785—NATIONAL DIFFUSION NETWORK: GENERAL PROVISIONS

1. The authority citation for Part 785 is revised to read as follows:

Authority: 20 U.S.C. 2962, unless otherwise noted.

2. Section 785.5(b) is amended by removing the definitions of "Dissemination Review Approval" and "Program Significance Panel", adding, in alphabetical order, a definition of "Joint Dissemination Review Panel", and revising the definitions of "Exemplary education program" and "Program Effectiveness Panel" to read as follows:

§ 785.5 What definitions apply?

* * * * *

(b) * * *

"Exemplary education program" means a program, product, practice, or Dissemination Process that has Program Effectiveness Panel approval.

"Joint Dissemination Review Panel" or "JDRP" means the Panel that was convened by the Secretary to approve exemplary education programs and that was the predecessor to the Program Effectiveness Panel.

* * * * *

"Program Effectiveness Panel" or "PEP" means a panel of experts in the evaluation of education programs and in other areas of education, at least two-thirds of whom are not Federal employees, who are appointed by the Secretary, and who review and assign scores to programs according to the criteria in § 786.12 or 787.12.

* * * * *

PART 786—NATIONAL DIFFUSION NETWORK: DEVELOPER DEMONSTRATOR PROJECTS

3. The authority citation for Part 786 is revised to read as follows:

Authority: 20 U.S.C. 2962 unless otherwise noted.

4. The table of contents for Part 786 is amended by revising Subparts B, C and D to read as follows:

* * * * *

Subpart B—How Does One Apply for an Award?

Sec.
786.10 What materials must an applicant submit to apply for an award?
786.11 What must an applicant submit for review by the PEP?
786.12 How does the PEP review a program, product, or practice?
786.13 How is PEP approval granted?
786.14 How long does PEP approval last?
786.15 How long does JDRP approval last?
786.16 What activities must an applicant propose to carry out if it receives an award?

Subpart C—How Does the Secretary Make an Award?

Sec.
786.20 How does the Secretary evaluate an application?
786.21 Selection criterion—innovative approach of exemplary education program. (15 points)
786.22 Selection criterion—accuracy of exemplary education program. (15 points)
786.23 Selection criterion—plan of operation. (25 points)
786.24 Selection criterion—quality of key personnel. (20 points)
786.25 Selection criterion—budget and cost-effectiveness. (5 points)
786.26 Selection criterion—evaluation plan. (10 points)
786.27 Selection criterion—adequacy of resources. (5 points)
786.28 Selection criterion—monitoring plan. (5 points)
786.29 What additional criteria exist for new awards?
786.30 What additional criteria exist for continuation awards?

Subpart D—What Conditions Must Be Met by the Recipient of an Award?

Sec.
786.31 What disclaimers are required on printed materials?
786.32 What are a recipient's responsibilities for serving students enrolled in nonprofit private schools?

* * * * *

5. Section 786.2 is amended by revising paragraphs (a)(1) and (b) and the authority citation to read as follows:

§ 786.2 Who is eligible for an award?

(a) * * *

(1) Any public or nonprofit private agency, organization, or institution that has developed a program, product, or practice that has Program Effectiveness Panel approval or JDRP approval and that is in use in a site that can be visited may apply for a new Developer Demonstrator award.

* * * * *

(b) Any Developer Demonstrator grantee, otherwise eligible to apply for a continuation award, may apply for the continuation award even if either the PEP approval period or the JDRP approval period has expired.

(Authority: 20 U.S.C. 2962)

6. Section 786.3 is amended by revising paragraph (b)(3) to read as follows:

§ 786.3 What priorities may the Secretary establish?

* * * * *

(b) * * *

(3) History, geography, and civics.

* * * * *

7. Section 786.10 is revised to read as follows:

§ 786.10 What materials must an applicant submit to apply for an award?

An applicant shall submit a representative sample of the instructional, classroom, or curriculum materials of the exemplary education program that would be disseminated by the project.

(Authority: 20 U.S.C. 2962)

§ 786.12 [Removed]

§ 786.11 [Redesignated as § 786.12]

8. Section 786.12 is removed and § 786.11 is redesignated as § 786.12, and the section heading is amended by revising "Program Effectiveness Panel" to read "PEP".

9. A new § 786.11 is added to read as follows:

§ 786.11 What must an applicant submit for review by the PEP?

For PEP review of a program, product, or practice, an applicant shall submit to the Secretary qualitative or quantitative evidence of the effectiveness of the program, product, or practice.

(Authority: 20 U.S.C. 2962)

10. Section 786.13 is revised to read as follows:

§ 786.13 How is PEP approval granted?

PEP approval is granted if the PEP has given the program, product, or practice a score of at least 40 points for the criterion in § 786.12(d)(2) (*Results*) and a total score of at least 70 points.

(Authority: 20 U.S.C. 2962)

11. Section 786.14 is revised to read as follows:

§ 786.14 How long does PEP approval last?

PEP approval remains in effect for six years after the date of approval.

(Authority: 20 U.S.C. 2962)

§ 786.16 [Redesignated from § 786.15]

12. Section 786.15 is redesignated as § 786.16 and a new § 786.15 is added to read as follows:

§ 786.15 How long does JDRP approval last?

JDRP approval remains in effect for six years after the date of approval.

(Authority: 20 U.S.C. 2962)

13. Section 786.20 is revised to read as follows:

§ 786.20 How does the Secretary evaluate an application?

The Secretary evaluates an application, including a representative sample of the program materials, according to the criteria in §§ 786.21 through 786.29.

(Authority: 20 U.S.C. 3851)

§ 786.27 [Removed]

§§ 786.21 through 786.26 and §§ 786.28 through 786.31 [Redesignated as §§ 786.23 through § 786.32]

14. Section 786.27 is removed, §§ 786.21, 786.22, 786.23, 786.24, 786.25, 786.26, 786.28, 786.29, 786.30 and 786.31 are redesignated as §§ 786.23, 786.24, 786.25, 786.26, 786.27, 786.28, 786.29, 786.30, 786.31 and 786.32 respectively.

15. New §§ 786.21 and 786.22 are added to read as follows:

§ 786.21 Selection criterion—innovative approach of exemplary education program. (15 points)

The Secretary reviews a representative sample of the instructional, classroom, and curriculum materials that are used by the exemplary education program to determine the extent to which the program's approach is innovative.

(Authority: 20 U.S.C. 2962)

§ 786.22 Selection criterion—accuracy of exemplary education program. (15 points)

The Secretary reviews a representative sample of the instructional, classroom, and curriculum materials that are used by the exemplary education program to determine the extent to which the program is accurate and up-to-date.

(Authority: 20 U.S.C. 2962)

16. Redesignated § 786.23 is amended by redesignating paragraph (f) as paragraph (g), by removing the word "and" at the end of paragraph (e), and by adding a new paragraph (f) to read as follows:

§ 786.23 Selection criterion—plan of operation. (25 points)

* * * * *

(f) The extent to which the applicant proposes dissemination strategies designed to meet specific characteristics of its program; and

* * * * *

§ 786.24 [Amended]

17. Redesignated § 786.24 is amended by removing "25" from the section heading, and replacing it with "20".

§ 786.26 [Amended]

18. Redesignated § 786.26 is amended by removing "20" from the section heading, and replacing it with "10".

§ 786.28 [Amended]

19. Redesignated § 786.28 is amended by removing "15" from the section heading, and replacing it with "5".

20. Redesignated § 786.29 is revised to read as follows:

§ 786.29 What additional criteria exist for new awards?

In determining the order of selection under EDGAR § 75.217(d) for new Developer Demonstrator awards, the Secretary seeks diversity of projects funded under a particular competition or under this program.

(Authority: 20 U.S.C. 2962)

PART 787—NATIONAL DIFFUSION NETWORK: DISSEMINATION PROCESS PROJECTS

21. The authority citation for Part 787 is amended to read as follows:

Authority: 20 U.S.C. 2962, unless otherwise noted.

22. The table of contents for Part 787 is amended by revising Subparts B, C and D to read as follows:

* * * * *

Subpart B—How Does One Apply for an Award?

Sec.
787.10 What materials must an applicant submit to apply for an award?
787.11 What must an applicant submit for review by the PEP?
787.12 How does the PEP review a Dissemination Process?
787.13 How is PEP approval granted?
787.14 How long does PEP approval last?
787.15 How long does JDRP approval last?
787.16 What activities must an applicant propose to carry out if it receives an award?

Subpart C—How does the Secretary Make an Award?

Sec.
787.20 How does the Secretary evaluate an application?
787.21 Selection criterion—innovative approach of exemplary education program. (15 points)
787.22 Selection criterion—accuracy of exemplary education program. (15 points)
787.23 Selection criterion—plan of operation. (25 points)
787.24 Selection criterion—quality of key personnel. (10 points)
787.25 Selection criterion—budget and cost-effectiveness. (5 points)
787.26 Selection criterion—evaluation plan. (10 points)
787.27 Selection criterion—adequacy of resources. (5 points)
787.28 Selection criterion—monitoring plan. (5 points)
787.29 What additional criteria exist for new awards?
787.30 What additional criteria exist for continuation awards?

Subpart D—What Conditions Must be Met by the Recipient of an Award?

Sec.
787.31 What disclaimers are required on printed materials?
787.32 What are a recipient's responsibilities for serving students enrolled in nonprofit private schools?

§ 787.2 [Amended]

23. Section 787.2 is amended by removing the words "Dissemination Review Approval" and replacing them with "Program Effectiveness Panel approval."

§ 787.12 [Removed]

§§ 787.10 and 787.11 [Redesignated as §§ 787.11 and 787.12 Respectively]

24. Section 787.12 is removed, § 787.10 is redesignated as § 787.11, and § 787.11 is redesignated as § 787.12, and the section heading for § 787.12 is amended

by revising "Program Effectiveness Panel" to read "PEP".

25. A new § 787.10 is added to read as follows:

§ 787.10 What materials must an applicant submit to apply for an award?

An applicant shall submit a representative sample of the information and instructional materials that would be disseminated through the Dissemination Process.

(Authority: 20 U.S.C. 2962)

26. Redesignated § 787.11 is amended by removing the paragraph designation for paragraph (a), removing paragraph (b), redesignating paragraphs (a)(1), (a)(2), and (a)(3) as paragraphs (a), (b), and (c), respectively, and revising the section heading and the undesignated text preceding paragraph (a) to read as follows:

§ 787.11 What must an applicant submit for review by the PEP?

For PEP review of a dissemination process, an applicant shall submit to the Secretary—

* * * * *

27. Section 787.13 is revised to read as follows:

§ 787.13 How is PEP approval granted?

PEP approval is granted if the PEP has given the procedures and criteria a score of at least 20 points for the criterion in § 787.12(d)(2) (*Results*) and a total score of at least 70 points.

(Authority: 20 U.S.C. 2962)

28. Section 787.14 is revised to read as follows:

§ 787.14 How long does PEP approval last?

PEP approval remains in effect for six years from the date of approval.

§ 787.16 [Redesignated from § 787.15]

29. Section 787.15 is redesignated as § 787.16.

30. A new § 787.15 is added to read as follows:

§ 787.15 How long does JDRP approval last?

JDRP approval remains in effect for six years from the date of approval.

(Authority: 20 U.S.C. 2962)

§ 787.20 [Amended]

31. Section 787.20 is amended by adding the words "including a representative sample of the information and instructional materials to be disseminated" after the word "application".

§ 787.27 [Removed]

§§ 787.21 through 787.26 and §§ 787.28 through 787.31 [Redesignated as §§ 787.23 through 787.32 Respectively]

32. Section 787.27 is removed, §§ 787.21, 787.22, 787.23, 787.24, 787.25, 787.26, 787.28, 787.29, 787.30, and 787.31 are redesignated as §§ 787.23, 787.24, 787.25, 787.26, 787.27, 787.28, 787.29, 787.30, 787.31, and 787.32 respectively.

33. New §§ 787.21 and 787.22 are added to read as follows:

§ 787.21 Selection criterion—innovative approach of exemplary education program. (15 points)

The Secretary reviews a representative sample of the information and instructional materials to be disseminated to determine the extent to which the program's approach is innovative.

(Authority: 20 U.S.C. 2962)

§ 787.22 Selection criterion—accuracy of exemplary education program. (15 points)

The Secretary reviews a representative sample of the information and instructional materials to be disseminated to determine the extent to which the program is accurate and up-to-date.

34. Redesignated § 787.23 is amended by removing "30" in the section heading and adding in its place, "25", removing the cross-reference "737.16 in paragraph (a) and adding, in its place, "787.16, redesignating paragraph (g) as paragraph (h), and adding a new paragraph (g) to read as follows:

§ 787.23 Selection criterion—plan of operation. (25 points)

(g) The extent to which the applicant proposes dissemination strategies designed to meet specific characteristics of its program.

* * * * *

§ 787.25 [Amended]

35. Redesignated § 787.25 is amended by removing "10" in the section heading, and adding in its place, "5".

§ 787.26 [Amended]

36. Redesignated § 787.26 is amended by removing "15" in the section heading and adding in its place "10".

§ 787.27 [Amended]

37. Redesignated § 787.27 is amended by removing "10" in the section heading and adding in its place "5".

38. Redesignated § 787.29 is revised to read as follows:

§ 787.29 What additional criteria exist for new awards?

In determining the order of selection under EDGAR § 75.217(d) for new Dissemination Process awards, the Secretary seeks diversity of projects funded under a particular competition or under this program.

(Authority: 20 U.S.C. 2962)

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